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HOUSE BILL 865

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO CONTROLLED SUBSTANCES; CLARIFYING UNLAWFUL CONDUCT
IN THE DRUG PRECURSOR ACT; ADDING UNLAWFUL CONDUCT TO THE DRUG
PRECURSOR ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-31B-12 NMSA 1978 (being Laws 1989,
Chapter 177, Section 12, as amended by Laws 2004, Chapter 9,
Section 5 and by Laws 2004, Chapter 12, Section 5) is amended
to read:

"30-31B-12. DRUG PRECURSORS--PROHIBITED ACTS--
PENALTIES.--

A. It is unlawful for ~~any~~ a person:

(1) to transfer drug precursors except to an
authorized licensee;

(2) to intentionally use in the course of the

underscored material = new
[bracketed material] = delete

1 manufacture or transfer of a drug precursor a license number
2 [~~which~~] that is fictitious, revoked, suspended or issued to
3 another person;

4 (3) to intentionally acquire or obtain, or
5 attempt to acquire or obtain, possession of a drug precursor by
6 misrepresentation, fraud, forgery, deception or subterfuge;

7 (4) to intentionally furnish false or
8 fraudulent material information in, or omit [~~any~~] material
9 information from, [~~any~~] an application, report or other
10 document required to be kept or filed under the Drug Precursor
11 Act or [~~any~~] a record required to be kept by that act;

12 (5) who is a licensee to intentionally
13 manufacture a drug precursor not authorized by [~~his~~] the
14 person's license or to intentionally transfer a drug precursor
15 not authorized by [~~his~~] the person's license to another
16 licensee or authorized person;

17 (6) to intentionally refuse or fail to make,
18 keep or furnish [~~any~~] a record, notification, order form,
19 statement, invoice or information required under the Drug
20 Precursor Act;

21 (7) to intentionally refuse an entry into
22 [~~any~~] a premises for [~~any~~] an inspection authorized by the Drug
23 Precursor Act; [~~or~~]

24 (8) except as provided in Subsection D of
25 Section 30-31B-6 NMSA 1978, to manufacture, possess, transfer

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1 or transport a drug precursor without the appropriate license
2 or in violation of [~~any~~] a rule or regulation of the board; or
3 (9) to intentionally manufacture, possess,
4 transfer or transport a drug precursor for the purpose of
5 manufacturing a controlled substance or controlled substance
6 analog in violation of the Controlled Substances Act. For the
7 purpose of this paragraph, the manufacture, possession,
8 transfer or transport of more than twenty-four grams of a drug
9 precursor without the appropriate license issued pursuant to
10 the Drug Precursor Act, or as authorized in Subsection D of
11 Section 30-31B-6 NMSA 1978, shall constitute prima facie
12 evidence of the intent to manufacture, possess, transfer or
13 transport a drug precursor for the purpose of manufacturing a
14 controlled substance or controlled substance analog in
15 violation of the Controlled Substances Act.

16 B. Any person who violates [~~any~~] a provision of
17 this section is guilty of a fourth degree felony and shall be
18 sentenced pursuant to the provisions of Section 31-18-15 NMSA
19 1978.

20 C. When a person owns or operates a retail
21 establishment where drug precursors are sold by an employee in
22 violation of the provisions of this section, it is an
23 affirmative defense to a prosecution of that owner or operator
24 if [~~he~~] the owner or operator furnishes documentation that [~~he~~]
25 the owner or operator provided the employee with a training

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1 program regarding state and federal laws and regulations
2 regarding drug precursors; provided that, if the owner or
3 operator knew or should have known of the employee's violation,
4 the owner or operator shall also be in violation of the
5 provisions of this section.

6 D. When drug precursors are sold by an employee of
7 a retail establishment in violation of the provisions of this
8 section, it is an affirmative defense to a prosecution of that
9 employee that [~~he~~] the employee did not receive training from
10 [~~his~~] the employer regarding state and federal laws and
11 regulations regarding drug precursors."

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